

(2016) 08 MP CK 0004

MADHYA PRADESH HIGH COURT

Case No: Writ Petition No. 5465 of 2015

Smt. Rajkumari Singh (Raj Singh)

APPELLANT

Vs

State of Madhya Pradesh

RESPONDENT

Date of Decision: Aug. 3, 2016

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: (2016) 151 FLR 1062

Hon'ble Judges: Sujoy Paul, J.

Bench: Single Bench

Advocate: Girish Kekre, GA, for the Respondents/State; Anoop Shrivastav, Counsel, for the Petitioner

Final Decision: Allowed

Judgement

Sujoy Paul, J. - Learned counsel for the petitioner advanced singular contention. He submitted that petitioner was subjected to a disciplinary proceeding which ended with imposition of punishment of censure on 3.5.2014. Thereafter, petitioner did not prefer any appeal. The Government by notice dated 27.8.2014 directed the petitioner to show cause as to why punishment of censure should not be enhanced/modified by withholding of four increments with non-cumulative effect. Petitioner submitted his response vide Annexure P/6. Thereafter, respondents issued a fresh charge sheet Annexure P/7 dated 21.11.2014 and conducted the inquiry by appointing an inquiry officer. His report is Annexure P/1 dated 09.04.2015. The singular ground of attack is that the competent authority issued the show-cause notice for a limited purpose whereas decision taken was for a different purpose. Accordingly, the proceedings from that stage be interfered with.

2. Prayer is opposed by Shri Girish Kekre, GA for the respondents/State.

3. He relied on various paragraphs of the return.

4. I have heard the parties at length and perused the record. In the opinion of this court, the reviewing authority can exercise certain powers under rule 29 of M.P.CS (CCA) Rules. However, it is noteworthy that show-cause notice dated 27.8.2014 was only for modification of the punishment. Naturally, petitioner also filed his response to that limited extent i.e upto which order of punishment was sought to be modified by the competent authority. However, the competent authority did not deal with that aspect of enhancement of punishment and reopened the inquiry by issuance of a fresh charge-sheet. In my view, as per proviso to Rule 29(1) of the MPCS(CCA) Rules, the competent authority can direct for conducting an inquiry as per rule 14 of the CCA Rules provided he intended to enhance the punishment which are covered under clauses (v) to (ix) of Rule 10 of the CCA Rules i.e major punishments. However, the reasons shown in order Annexure P/5 makes it clear that he wanted to substitute a minor punishment by another minor punishment. Hence, for that purpose, there was no question to conduct regular inquiry under Rule 14 of CCA Rules. The impugned order is liable to be interfered with for the sole reason that a person cannot be put to notice for one reason and can put to jeopardy for another reason. Resultantly, the action of respondents from the stage i.e beyond issuance of notice dated 27.08.2014 is set aside. The liberty is reserved to the respondents to proceed against the petitioner in accordance with law.

5. Petition is allowed to the extent indicated above.